

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSE WILLIAM MCGRAW,

Defendant.

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CRIMINAL ACTION NO.

3:09-CR-210-B(01)

ECF

UNOPPOSED MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE JANE J. BOYLE:

Defendant Jesse William McGraw (Mr. McGraw) respectfully moves this Court for a sixty (60) day continuance of the trial and associated dates in this case, including the due date for defense pretrial motions, and in support presents the following:

1. On July 22, 2009, a federal grand jury named Mr. McGraw as the sole defendant in a two count Indictment alleging violation of 18 U.S.C. §1030(a)(5)(A) and § 1030(c)(4)(B)(i)(II) (Transmitting a Malicious Code).

2. In accordance with this Court's Pretrial Order, Mr. McGraw is scheduled for trial on September 14, 2009 and defense pretrial motions are due August 10, 2009.

3. The defense is still reviewing the discovery provided by the government thus far. The defense also anticipates that the government will make additional discovery available in the near future. The defense respectfully requests additional time to review this discovery and otherwise complete an independent investigation of the case.

4. Should the Court grant the requested continuance, the defense agrees that any period

of delay resulting therefrom, made necessary by this request for continuance, shall be excludable under 18 U.S.C. § 3161(h)(8). Additionally, the ends of justice served by the granting of this continuance outweigh the best interests of the public and the Defendant in a speedy trial, 18 U.S.C. § 3161(h)(8)(A) .

5. Defense counsel has discussed this motion with the Assistant United States Attorney assigned the case, Ms. Candy Heath, and learned that the government is not opposed to this motion.

Respectfully submitted,

/s/ John M. Nicholson

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CERTIFICATE OF CONFERENCE

I, John M. Nicholson, hereby certify that I conferred with Candy Heath, AUSA on the above-referenced motion, and learned that the government does not oppose this request for a continuance of trial and all associated dates.

/s/ John M. Nicholson

John M. Nicholson

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2009 I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means: Assistant U. S. Attorney Candy Heath at candina.heath@usdoj.gov. A copy of the foregoing document was also served by hand-delivery to Ms. Heath at 1100 Commerce St., Third Floor, Dallas, Texas.

/s/ John M. Nicholson

John M. Nicholson